

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA**

In re

**STEVEN L CAVANAUGH,**

Debtor.

Case No. **13-60662-13**

**ORDER**

At Butte in said District this 23<sup>rd</sup> day of August, 2013.


In this Chapter 13 bankruptcy, Debtor filed a Motion to Dismiss on August 5, 2013. In the past, this Court had held that under 11 U.S.C. § 1307(b), debtors have an absolute right to dismiss their Chapter 13 case as long as “the case has not been converted under section 706, 1112, or 1208.” However, in the case of *In re Rosson*, 545 F.3d 764 (9<sup>th</sup> Cir. 2008), the Ninth Circuit Court of Appeals extended the ruling of *Marrama v. Citizens Bank of Mass.*, 549 U.S. 365, 127 S.Ct. 1105, 166 L.Ed.2d 956 (2007), and held that “a debtor's right to voluntarily dismiss a Chapter 13 case under § 1307(b) is not absolute, but is qualified by an implied exception for bad-faith conduct or abuse of the bankruptcy process.” *In re Rosson*, 545 F.3d at 767. Given the *Rosson* decision, this Court amended its Local Rules, effective December 1, 2009. Now, under Mont. LBR 1017-1(a)(3), “[a] debtor seeking dismissal under 11 U.S.C. § . . . 1307(b) shall file a motion for dismissal, with the notice required under Mont. LBR 9013-1.” .

Debtor's Motion is accompanied by the 14-day notice provision required by Mont. LBR 1017-1(a)(3) and Mont. LBR 9013-1. The Court has not received any opposition to Debtor's Motion and the 14-day period to respond has expired. The absence of any opposition to Debtor's

Motion implies that dismissal of this case is not subject to an exception for bad-faith conduct or abuse of the bankruptcy process. Accordingly,

IT IS ORDERED Debtor's Motion to Dismiss filed August 5, 2013, is GRANTED; and pursuant to 11 U.S.C. § 1307(b), this case is DISMISSED.

BY THE COURT

A handwritten signature in cursive script, reading "Ralph B. Kirscher", is written over a horizontal line.

HON. RALPH B. KIRSCHER  
U.S. Bankruptcy Judge  
United States Bankruptcy Court  
District of Montana